

REMARKS/ARGUMENTS

Claims 1-28 remain pending. Applicants understand the previous 103 rejection has been overcome.

Claim Rejections 35 USC § 103

Claims 1-28 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over US Pat. No. 6,615,408 to Kaiser (hereinafter Kaiser) in view of US Pat. No. 6,473,609 to Schwartz (hereinafter Schwartz) and US Pat. No. 6,173,317 (hereinafter Chaddha). Applicants respectfully traverse the rejection in view of the following.

The Office Action admits the combination of Kaiser and Schwartz fails to teach transmitting a stream with both the business data and the script. The Office Action cites Chaddha as showing java ticker applets which the rejection equates to business data. Applicants respectfully traverse. Applicants understand applets to be small applications that run in the context of another application. As such, Applicants respectfully assert that applications are not business data as claimed. Accordingly, Applicants respectfully assert that Chaddha does not remedy the shortcomings of Kaiser and Schwartz with respect to their failure to teach or suggest transmitting a stream with both business data and the script.

Applicants further point out the rejection equates data in binary form as claimed to HTML, XML, or SGML pages. Applicants understand binary format to be in a machine readable format and thus not human readable. Applicants point out that in contrast HTML, XML, or SGML are human readable. Accordingly, Applicants respectfully assert that the combination of Kaiser, Schwartz, and Chaddha does not render Claim 1 obvious within the meaning of 35 U.S.C. § 103.

Accordingly, Applicants respectfully assert that Claims 7, 14, and 20 include limitations similar to Claim 1 and thus are not rendered obvious by the combination of Kaiser, Schwartz, and Chaddha within the meaning of 35 U.S.C. § 103. Dependent Claims are allowable by virtue of their dependency.

As per Claims 3 and 16, the rejection relies on Kaiser inherently teaching improving the access speed to the business data as XML. As per Claims 4 and 17, the rejection relies on Kaiser inherently reducing the size of the business data as XML. Applicants wish to remind the Examiner that “to establish inherency, the extrinsic evidence ‘must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.’ ” In re Robertson, 169

F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999). Further, “in relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.” Ex parte Levy, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). As such Applicants respectfully invite the Examiner to introduce extrinsic evidence to establish the alleged inherency or to kindly withdraw the rejections. As such allowance of Claims 3, 4, 16, and 17 is earnestly solicited because the cited art does not render Claims 3, 4, 16, and 17 obvious within the meaning of 35 U.S.C. § 103.

As per Claims 6, 10, and 22, the Examiner takes official notice that the use of a modem to transmit data to a receiver is notoriously well known in the art. Applicants respectfully submit that taking official notice of entire claims, such as in the present Office Action, is only appropriate “provided the facts so noticed are of notorious character and serve only to ‘fill in the gaps’ which might exist in the evidentiary showing made by the Examiner to support a particular ground of rejection” (emphasis added). See MPEP 2144.03(A). As such, Applicants respectfully submit that the assertion of Official Notice with respect to Claims 6, 10, 22 is inappropriate and accordingly request that the Examiner provide a reference(s) teaching or suggesting the limitations of these claims or withdraw the rejection.

As per Claims 28, the Examiner takes official notice that transmitting updated in band data is notoriously well known in the art. Applicants respectfully submit that taking official notice of entire claims, such as in the present Office Action, is only appropriate "provided the facts so noticed are of notorious character and serve only to 'fill in the gaps' which might exist in the evidentiary showing made by the Examiner to support a particular ground of rejection" (emphasis added). See MPEP 2144.03(A). As such, Applicants respectfully submit that the assertion of Official Notice with respect to Claim 28 is inappropriate and accordingly request that the Examiner provide a reference(s) teaching or suggesting the limitations of these claims or withdraw the rejection.

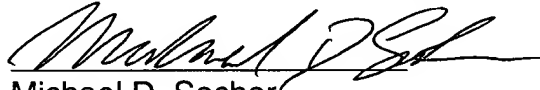
CONCLUSION

In light of the above listed remarks, reconsideration of the rejected Claims is requested. Based on the arguments presented above, it is respectfully submitted that Claims 1-28 overcome the rejections of record and, therefore, allowance of Claims 1-28 is earnestly solicited.

Please charge any additional fees or apply any credits to our PTO deposit account number: 50-4160.

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Respectfully submitted,
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